

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

JAVIER RODRIGUEZ,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 2:17cv277-WKW
)	
FEDERAL BUREAU OF PRISONS,)	
)	
Defendant.)	

RECOMMENDATION OF THE MAGISTRATE JUDGE

On May 4, 2017, this court entered an order (Doc. 2) directing Plaintiff by May 18, 2017 either to submit the \$400 filing and administrative fees associated with the initiation of this lawsuit or to file an affidavit in support of a motion for leave to proceed *in forma pauperis* accompanied by relevant financial information from the inmate account clerk.¹ In its order, the court specifically cautioned Plaintiff that his failure to comply with the order would result in a recommendation that the case be dismissed. Doc. 2 at 2.

The requisite time has passed, and Plaintiff has failed to submit either the fees or an affidavit in support of a motion for leave to proceed *in forma pauperis*. The court therefore concludes that dismissal is appropriate. In so deciding, the court has considered whether a measure less drastic than dismissal would be effective in assuring Plaintiff's compliance with the court's orders and participation in this lawsuit, but has determined that Plaintiff's apparent abandonment of his claims at this early stage of the proceedings indicates a lack

¹ Plaintiff is an inmate at United States Penitentiary Atlanta in Atlanta, Georgia.

of interest in this lawsuit such that other measures would be ineffective. *Moon v. Newsome*, 863 F.2d 835, 837 (11th Cir. 1989) (holding that, as a general rule, where a litigant has been forewarned, dismissal for failure to obey a court order is not an abuse of discretion).

Accordingly, it is the RECOMMENDATION of the Magistrate Judge that this case be DISMISSED without prejudice for Plaintiff's failure to comply with the court's orders.

It is further ORDERED that the parties shall file any objections to this Recommendation **on or before June 28, 2017**. A party must specifically identify the factual findings and legal conclusions in the Recommendation to which objection is made; frivolous, conclusive, or general objections will not be considered. Failure to file written objections to the Magistrate Judge's findings and recommendations in accordance with the provisions of 28 U.S.C. § 636(b)(1) will bar a party from a *de novo* determination by the District Court of legal and factual issues covered in the Recommendation and waives the right of the party to challenge on appeal the District Court's order based on unobjected-to factual and legal conclusions accepted or adopted by the District Court except upon grounds of plain error or manifest injustice. *Nettles v. Wainwright*, 677 F.2d 404 (5th Cir. 1982); 11th Cir. R. 3-1; *see Stein v. Lanning Sec., Inc.*, 667 F.2d 33 (11th Cir. 1982).

DONE on this 14th day of June, 2017.

A handwritten signature in black ink, appearing to read 'GB', with a horizontal line extending to the right.

GRAY M. BORDEN
UNITED STATES MAGISTRATE JUDGE